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case.

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**IN THE
COURT OF APPEALS OF INDIANA**

JOHNNY PARKER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0611-CR-1065

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Amy Barbar, Magistrate

Cause No. 49G02-0601-FB-8824

July 31, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Johnny Parker appeals his convictions for three counts of invasion of privacy as class A misdemeanors.¹ Parker raises one issue, which we revise and restate as whether the evidence is sufficient to support Parker's convictions. We affirm.

The facts most favorable to the convictions follow. Paula Smith met Parker in April 2004 through a co-worker. By September 2004, Smith had filed a protective order against Parker but had it withdrawn in July 2005. In early September 2005, Parker and Smith obtained a marriage license. Smith and Parker were again dating until September 29, 2005, when Smith obtained another protective order against Parker. The protective order was effective until November 29, 2005, and identified Parker's address as "2453 Beckwith Dr." State's Exhibit 6. Parker continued to call Smith on the phone and, on November 16, 2005, showed up at her place of business and got into a physical fight with Smith.

After their altercation, Parker continued to call Smith repeatedly and leave threatening messages. On November 22, 2005, Parker broke into Smith's townhouse by breaking Smith's glass door. Parker kept Smith with him during the day while he tried to buy crack. When she was finally alone, Smith called the police. Smith filed another protective order against Smith on November 29, 2005, which was effective until December 29, 2005, and had again identified Parker's address as "2453 Beckwith Dr." State's Exhibit 7. Parker continued to call Smith and her son after the second protective order had been filed. During one of these phone calls, Parker "made some reference to the fact when [Smith] went down and [Smith] filed a contempt on the restraining order

¹ Ind. Code § 35-46-1-15.1 (2002).

for when he broke in.” Transcript at 90. Parker stated that “I got a paper in the mail and he said, and the judge denied that.” Id.

The State charged Parker with stalking² as a class C felony, two counts of criminal confinement³ as class D felonies, two counts of theft⁴ as class D felonies, three counts of invasion of privacy as class A misdemeanors, burglary⁵ as a class B felony, and harassment⁶ as a class B misdemeanor. The charging information lists three occasions where Parker invaded Smith’s privacy by violating the protective order Smith had against him: (1) Parker confronted Smith when she left her place of employment on November 16, 2005; (2) Parker went to Smith’s house on or around November 22, 2005; and (3) Parker called Smith’s place of employment on or around December 1. At trial, the jury found Parker guilty of stalking, harassment, theft, and all three invasion of privacy charges. The trial court then ordered Parker to serve eight and one-half years in the Department of Correction.

The sole issue is whether the evidence is sufficient to sustain Parker’s invasion of privacy convictions. Our standard of review for sufficiency claims is well settled. We do not reweigh evidence or assess the credibility of witnesses. Taylor v. State, 681 N.E.2d 1105, 1110 (Ind. 1997). Rather, we look to the evidence and reasonable inferences drawn

² Ind. Code § 35-45-10-5 (2004).

³ Ind. Code § 35-42-3-3 (2004) (subsequently amended by Pub. L. No. 70-2006, §1 (eff. July 1, 2006)).

⁴ Ind. Code § 35-43-4-2 (2004).

⁵ Ind. Code § 35-43-2-1 (2004).

⁶ Ind. Code § 35-45-2-2 (2004).

therefrom that support the verdict and will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. Id.

“It is well established that ‘circumstantial evidence will be deemed sufficient if inferences may reasonably be drawn that enable the trier of fact to find the defendant guilty beyond a reasonable doubt.’” Brink v. State, 837 N.E.2d 192, 194 (Ind. Ct. App. 2005) (quoting Pratt v. State, 744 N.E.2d 434, 436-437 (Ind. 2001)), trans. denied. A guilty verdict may be based solely upon circumstantial evidence. Pierce v. State, 705 N.E.2d 173, 175 (Ind. 1998). The reviewing court need not determine that circumstantial evidence is adequate to overcome every reasonable hypothesis of innocence, but only that an inference may reasonably be drawn which supports the finding. Id.

Parker argues that the evidence is insufficient to sustain his convictions for invasion of privacy. Specifically, Parker argues that the evidence regarding the knowledge element for invasion of privacy was insufficient. Parker contends that the State failed to prove he was aware of the protective order. Invasion of privacy is defined, in pertinent part, by Ind. Code § 35-46-1-15.1, which provides:

A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal)

* * * * *

Knowingly is defined in Ind. Code § 35-41-2-2(b) (2004), which provides:

A person engages in conduct “knowingly” if, when he engages in the conduct, he is aware of a high probability that he is doing so.

The same address, 2453 Beckwith Drive, appeared on the September protective order and the November protective order. The record reflects that Parker stated in a conversation with Smith that he received mail regarding a contempt action of the September protective order. Finally, the only evidence of a different address was for Smith's July 2005 request for dismissal, which has no relevancy regarding whether Parker had knowledge of the current protective orders. The jury made a reasonable inference from the evidence that Parker had knowledge of the protective order. Therefore, the evidence is sufficient to sustain Parker's convictions. See, e.g., Pierce, 705 N.E.2d at 175 (holding that circumstantial evidence was enough to have the jury reasonably infer a defendant knowingly killed victim).

For the foregoing reasons, we affirm Parker's convictions for invasion of privacy.

Affirmed.

MAY, J. and BAILEY, J. concur